

CHILD WELFARE AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lincoln Fillmore

House Sponsor: Robert M. Spendlove

LONG TITLE

General Description:

This bill amends and enacts provisions concerning child and family services.

Highlighted Provisions:

This bill:

- ▶ enacts a definition of "child protection unit";
- ▶ provides that a chief of police or a sheriff may create a child protection unit;
- ▶ permits the Division of Child and Family Services (the division) to include members of a child protection unit as part of a child protection team when the division takes a child into custody or files a petition to commence proceedings in juvenile court alleging that a child is abused or neglected;
- ▶ permits the division to include members of a child protection unit in the child protection team that assists the division in the division's protective, diagnostic, assessment, treatment, and coordination services;
- ▶ establishes a child protection unit pilot program;
- ▶ provides for sunset review of the child protection unit pilot program before it is repealed on December 31, 2019; and
- ▶ ensures that the division may make records that are the result of a child abuse or neglect report available to members of a child protection unit.

Money Appropriated in this Bill:

None



28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

- 32 **10-3-913**, as last amended by Laws of Utah 2002, Chapter 219
- 33 **17-22-2**, as last amended by Laws of Utah 2014, Chapter 366
- 34 **62A-4a-101**, as last amended by Laws of Utah 2009, Chapter 75
- 35 **62A-4a-202.3**, as last amended by Laws of Utah 2008, Chapter 3
- 36 **62A-4a-202.8**, as last amended by Laws of Utah 2008, Chapter 3
- 37 **62A-4a-409**, as last amended by Laws of Utah 2010, Chapter 239
- 38 **62A-4a-412**, as last amended by Laws of Utah 2016, Chapter 144
- 39 **63I-1-262**, as last amended by Laws of Utah 2016, Chapter 231
- 40 **78A-6-322**, as renumbered and amended by Laws of Utah 2008, Chapter 3

41 ENACTS:

42 **62A-4a-202.9**, Utah Code Annotated 1953



44 *Be it enacted by the Legislature of the state of Utah:*

45 Section 1. Section **10-3-913** is amended to read:

46 **10-3-913. Authority of chief of police.**

47 (1) The chief of police has the same authority as the sheriff within the boundaries of
48 the municipality of appointment. The chief has authority to:

- 49 (a) suppress riots, disturbances, and breaches of the peace;
- 50 (b) apprehend all persons violating state laws or city ordinances;
- 51 (c) diligently discharge his duties and enforce all ordinances of the city to preserve the
52 peace, good order, and protection of the rights and property of all persons; [~~and~~]
- 53 (d) attend the municipal justice court located within the city when required, provide
54 security for the court, and obey its orders and directions[~~;~~]; and
- 55 (e) create a child protection unit, as defined in Section [62A-4a-101](#).

56 (2) This section is not a limitation of a police chief's statewide authority as otherwise
57 provided by law.

58 (3) The chief of police shall, on or before January 1, 2003, adopt a written policy that

59 prohibits the stopping, detention, or search of any person when the action is solely motivated
60 by considerations of race, color, ethnicity, age, or gender.

61 Section 2. Section 17-22-2 is amended to read:

62 **17-22-2. Sheriff -- General duties.**

63 (1) The sheriff shall:

64 (a) preserve the peace;

65 (b) make all lawful arrests;

66 (c) attend in person or by deputy the Supreme Court and the Court of Appeals when
67 required or when the court is held within his county, all courts of record, and court
68 commissioner and referee sessions held within his county, obey their lawful orders and
69 directions, and comply with the court security rule, Rule 3-414, of the Utah Code of Judicial
70 Administration;

71 (d) upon request of the juvenile court, aid the court in maintaining order during
72 hearings and transport a minor to and from youth corrections facilities, other institutions, or
73 other designated places;

74 (e) attend county justice courts if the judge finds that the matter before the court
75 requires the sheriff's attendance for security, transportation, and escort of jail prisoners in his
76 custody, or for the custody of jurors;

77 (f) command the aid of as many inhabitants of his county as he considers necessary in
78 the execution of these duties;

79 (g) take charge of and keep the county jail and the jail prisoners;

80 (h) receive and safely keep all persons committed to his custody, file and preserve the
81 commitments of those persons, and record the name, age, place of birth, and description of
82 each person committed;

83 (i) release on the record all attachments of real property when the attachment he
84 receives has been released or discharged;

85 (j) endorse on all process and notices the year, month, day, hour, and minute of
86 reception, and, upon payment of fees, issue a certificate to the person delivering process or
87 notice showing the names of the parties, title of paper, and the time of receipt;

88 (k) serve all process and notices as prescribed by law;

89 (l) if he makes service of process or notice, certify on the process or notices the

90 manner, time, and place of service, or, if he fails to make service, certify the reason upon the
91 process or notice, and return them without delay;

92 (m) extinguish fires occurring in the undergrowth, trees, or wooded areas on the public
93 land within his county;

94 (n) perform as required by any contracts between the county and private contractors for
95 management, maintenance, operation, and construction of county jails entered into under the
96 authority of Section 17-53-311;

97 (o) for the sheriff of a county that enters into an interlocal agreement for law
98 enforcement service under Title 11, Chapter 13, Interlocal Cooperation Act, provide law
99 enforcement service as provided in the interlocal agreement;

100 (p) manage search and rescue services in his county;

101 (q) obtain saliva DNA specimens as required under Section 53-10-404;

102 (r) on or before January 1, 2003, adopt a written policy that prohibits the stopping,
103 detention, or search of any person when the action is solely motivated by considerations of
104 race, color, ethnicity, age, or gender; ~~and~~

105 (s) create a child protection unit, as defined in Section 62A-4a-101, if the sheriff
106 determines that creation of a child protection unit is warranted; and

107 [~~s~~] (t) perform any other duties that are required by law.

108 (2) Violation of Subsection (1)(j) is a class C misdemeanor. Violation of any other
109 subsection under Subsection (1) is a class A misdemeanor.

110 (3) (a) As used in this Subsection (3):

111 (i) "Police interlocal entity" has the same meaning as defined in Sections 17-30-3 and
112 17-30a-102.

113 (ii) "Police local district" has the same meaning as defined in Section 17-30-3.

114 (b) A sheriff in a county which includes within its boundary a police local district or
115 police interlocal entity, or both:

116 (i) serves as the chief executive officer of each police local district and police interlocal
117 entity within the county with respect to the provision of law enforcement service within the
118 boundary of the police local district or police interlocal entity, respectively; and

119 (ii) is subject to the direction of the police local district board of trustees or police
120 interlocal entity governing body, as the case may be, as and to the extent provided by

121 agreement between the police local district or police interlocal entity, respectively, and the
122 sheriff.

123 (c) If a police interlocal entity or police local district enters an interlocal agreement
124 with a public agency, as defined in Section 11-13-103, for the provision of law enforcement
125 service, the sheriff:

126 (i) does not serve as the chief executive officer of any interlocal entity created under
127 that interlocal agreement, unless the agreement provides for the sheriff to serve as the chief
128 executive officer; and

129 (ii) shall provide law enforcement service under that interlocal agreement as provided
130 in the agreement.

131 Section 3. Section 62A-4a-101 is amended to read:

132 **62A-4a-101. Definitions.**

133 As used in this chapter:

134 (1) "Abuse" [~~is as~~] means the same as that term is defined in Section 78A-6-105.

135 (2) "Adoption services" means:

136 (a) placing children for adoption;

137 (b) subsidizing adoptions under Section 62A-4a-105;

138 (c) supervising adoption placements until the adoption is finalized by the court;

139 (d) conducting adoption studies;

140 (e) preparing adoption reports upon request of the court; and

141 (f) providing postadoptive placement services, upon request of a family, for the
142 purpose of stabilizing a possible disruptive placement.

143 (3) "Child" means, except as provided in Part 7, Interstate Compact on Placement of
144 Children, a person under 18 years of age.

145 (4) "Child protection team" means a team consisting of:

146 (a) the caseworker assigned to the case;

147 (b) the caseworker who made the decision to remove the child;

148 (c) a representative of the school or school district where the child attends school;

149 (d) the peace officer who removed the child from the home;

150 (e) a representative of the appropriate Children's Justice Center, if one is established
151 within the county where the child resides;

152 (f) if appropriate, and known to the division, a therapist or counselor who is familiar
153 with the child's circumstances;

154 (g) members of a child protection unit; and

155 (h) any other individuals determined appropriate and necessary by the team coordinator
156 and chair.

157 (5) "Child protection unit" means any unit created by a chief of police or a sheriff of a
158 city, town, metro township, or county that is composed of at least the following individuals
159 who are trained in the prevention, identification, and treatment of abuse or neglect:

160 (a) a law enforcement officer, as defined in Section 53-13-103; and

161 (b) a child advocate selected by the chief of police or a sheriff.

162 [~~5~~] (6) "Chronic abuse" means repeated or patterned abuse.

163 [~~6~~] (7) "Chronic neglect" means repeated or patterned neglect.

164 [~~4~~] (8) "Consumer" means a person who receives services offered by the division in
165 accordance with this chapter.

166 [~~7~~] (9) "Custody," with regard to the division, means the custody of a minor in the
167 division as of the date of disposition.

168 [~~8~~] (10) "Day-care services" means care of a child for a portion of the day which is
169 less than 24 hours:

170 (a) in the child's own home by a responsible person; or

171 (b) outside of the child's home in a:

172 (i) day-care center;

173 (ii) family group home; or

174 (iii) family child care home.

175 [~~9~~] (11) "Dependent child" or "dependency" means a child, or the condition of a
176 child, who is homeless or without proper care through no fault of the child's parent, guardian,
177 or custodian.

178 [~~10~~] (12) "Director" means the director of the Division of Child and Family Services.

179 [~~11~~] (13) "Division" means the Division of Child and Family Services.

180 [~~12~~] (14) "Domestic violence services" means:

181 (a) temporary shelter, treatment, and related services to:

182 (i) a person who is a victim of abuse, as defined in Section 78B-7-102; and

183 (ii) the dependent children of a person described in Subsection (12)(a)(i); and
184 (b) treatment services for a person who is alleged to have committed, has been
185 convicted of, or has pled guilty to, an act of domestic violence as defined in Section 77-36-1.

186 [~~(13)~~] (15) "Harm" [~~is as~~] means the same as that term is defined in Section
187 78A-6-105.

188 [~~(14)~~] (16) "Homemaking service" means the care of individuals in their domiciles, and
189 help given to individual caretaker relatives to achieve improved household and family
190 management through the services of a trained homemaker.

191 [~~(15)~~] (17) "Incest" [~~is as~~] means the same as that term is defined in Section
192 78A-6-105.

193 [~~(16)~~] (18) "Minor" means, except as provided in Part 7, Interstate Compact on
194 Placement of Children:

195 (a) a child; or

196 (b) a person:

197 (i) who is at least 18 years of age and younger than 21 years of age; and

198 (ii) for whom the division has been specifically ordered by the juvenile court to provide
199 services.

200 [~~(17)~~] (19) "Molestation" [~~is as~~] means the same as that term is defined in Section
201 78A-6-105.

202 [~~(18)~~] (20) "Natural parent" means a minor's biological or adoptive parent, and
203 includes a minor's noncustodial parent.

204 [~~(19)~~] (21) "Neglect" [~~is as~~] means the same as that term is defined in Section
205 78A-6-105.

206 [~~(20)~~] (22) "Protective custody," with regard to the division, means the shelter of a
207 child by the division from the time the child is removed from the child's home until the earlier
208 of:

209 (a) the shelter hearing; or

210 (b) the child's return home.

211 [~~(21)~~] (23) "Protective services" means expedited services that are provided:

212 (a) in response to evidence of neglect, abuse, or dependency of a child;

213 (b) to a cohabitant who is neglecting or abusing a child, in order to:

214 (i) help the cohabitant develop recognition of the cohabitant's duty of care and of the
215 causes of neglect or abuse; and

216 (ii) strengthen the cohabitant's ability to provide safe and acceptable care; and

217 (c) in cases where the child's welfare is endangered:

218 (i) to bring the situation to the attention of the appropriate juvenile court and law
219 enforcement agency;

220 (ii) to cause a protective order to be issued for the protection of the child, when
221 appropriate; and

222 (iii) to protect the child from the circumstances that endanger the child's welfare
223 including, when appropriate:

224 (A) removal from the child's home;

225 (B) placement in substitute care; and

226 (C) petitioning the court for termination of parental rights.

227 [~~(22)~~] (24) "Severe abuse" [~~is as~~] means the same as that term is defined in Section
228 78A-6-105.

229 [~~(23)~~] (25) "Severe neglect" [~~is as~~] means the same as that term is defined in Section
230 78A-6-105.

231 [~~(24)~~] (26) "Sexual abuse" [~~is as~~] means the same as that term is defined in Section
232 78A-6-105.

233 [~~(25)~~] (27) "Sexual exploitation" [~~is as~~] means the same as that term is defined in
234 Section 78A-6-105.

235 [~~(26)~~] (28) "Shelter care" means the temporary care of a minor in a nonsecure facility.

236 [~~(27)~~] (29) "State" means:

237 (a) a state of the United States;

238 (b) the District of Columbia;

239 (c) the Commonwealth of Puerto Rico;

240 (d) the Virgin Islands;

241 (e) Guam;

242 (f) the Commonwealth of the Northern Mariana Islands; or

243 (g) a territory or possession administered by the United States.

244 [~~(28)~~] (30) "State plan" means the written description of the programs for children,

245 youth, and family services administered by the division in accordance with federal law.

246 [~~(29)~~] (31) "Status offense" means a violation of the law that would not be a violation
247 but for the age of the offender.

248 [~~(30)~~] (32) "Substance abuse" [~~is as~~] means the same as that term is defined in Section
249 78A-6-105.

250 [~~(31)~~] (33) "Substantiated" or "substantiation" means a judicial finding based on a
251 preponderance of the evidence that abuse or neglect occurred. Each allegation made or
252 identified in a given case shall be considered separately in determining whether there should be
253 a finding of substantiated.

254 [~~(32)~~] (34) "Substitute care" means:

255 (a) the placement of a minor in a family home, group care facility, or other placement
256 outside the minor's own home, either at the request of a parent or other responsible relative, or
257 upon court order, when it is determined that continuation of care in the minor's own home
258 would be contrary to the minor's welfare;

259 (b) services provided for a minor awaiting placement; and

260 (c) the licensing and supervision of a substitute care facility.

261 [~~(33)~~] (35) "Supported" means a finding by the division based on the evidence
262 available at the completion of an investigation that there is a reasonable basis to conclude that
263 abuse, neglect, or dependency occurred. Each allegation made or identified during the course
264 of the investigation shall be considered separately in determining whether there should be a
265 finding of supported.

266 [~~(34)~~] (36) "Temporary custody," with regard to the division, means the custody of a
267 child in the division from the date of the shelter hearing until disposition.

268 [~~(35)~~] (37) "Transportation services" means travel assistance given to an individual
269 with escort service, if necessary, to and from community facilities and resources as part of a
270 service plan.

271 [~~(36)~~] (38) "Unsubstantiated" means a judicial finding that there is insufficient
272 evidence to conclude that abuse or neglect occurred.

273 [~~(37)~~] (39) "Unsupported" means a finding at the completion of an investigation that
274 there is insufficient evidence to conclude that abuse, neglect, or dependency occurred.

275 However, a finding of unsupported means also that the division worker did not conclude that

276 the allegation was without merit.

277 [~~(38)~~] (40) "Without merit" means a finding at the completion of an investigation by
278 the division, or a judicial finding, that the alleged abuse, neglect, or dependency did not occur,
279 or that the alleged perpetrator was not responsible for the abuse, neglect, or dependency.

280 Section 4. Section **62A-4a-202.3** is amended to read:

281 **62A-4a-202.3. Investigation -- Supported or unsupported reports -- Child in**
282 **protective custody.**

283 (1) When a child is taken into protective custody in accordance with Section
284 [62A-4a-202.1](#), [78A-6-106](#), or [78A-6-302](#), or when the division takes any other action which
285 would require a shelter hearing under Subsection [78A-6-306](#)(1), the division shall immediately
286 initiate an investigation of the:

- 287 (a) circumstances of the child; and
- 288 (b) grounds upon which the decision to place the child into protective custody was
289 made.

290 (2) The division's investigation shall conform to reasonable professional standards, and
291 shall include:

292 (a) a search for and review of any records of past reports of abuse or neglect involving:

- 293 (i) the same child;
- 294 (ii) any sibling or other child residing in the same household as the child; and
- 295 (iii) the alleged perpetrator;

296 (b) with regard to a child who is five years of age or older, a personal interview with
297 the child:

- 298 (i) outside of the presence of the alleged perpetrator; and
- 299 (ii) conducted in accordance with the requirements of Subsection (7);
- 300 (c) if a parent or guardian can be located, an interview with at least one of the child's
301 parents or guardian;

302 (d) an interview with the person who reported the abuse, unless the report was made
303 anonymously;

304 (e) where possible and appropriate, interviews with other third parties who have had
305 direct contact with the child, including:

- 306 (i) school personnel; and

- 307 (ii) the child's health care provider;
- 308 (f) an unscheduled visit to the child's home, unless:
- 309 (i) there is a reasonable basis to believe that the reported abuse was committed by a
- 310 person who:
 - 311 (A) is not the child's parent; and
 - 312 (B) does not:
 - 313 (I) live in the child's home; or
 - 314 (II) otherwise have access to the child in the child's home; or
- 315 (ii) an unscheduled visit is not necessary to obtain evidence for the investigation; and
- 316 (g) if appropriate and indicated in any case alleging physical injury, sexual abuse, or
- 317 failure to meet the child's medical needs, a medical examination, obtained no later than 24
- 318 hours after the child is placed in protective custody.
- 319 (3) The division may rely on a written report of a prior interview rather than
- 320 conducting an additional interview, if:
 - 321 (a) law enforcement:
 - 322 (i) previously conducted a timely and thorough investigation regarding the alleged
 - 323 abuse, neglect, or dependency; and
 - 324 (ii) produced a written report;
 - 325 (b) the investigation described in Subsection (3)(a)(i) included one or more of the
 - 326 interviews required by Subsection (2); and
 - 327 (c) the division finds that an additional interview is not in the best interest of the child.
- 328 (4) (a) The division's determination of whether a report is supported or unsupported
- 329 may be based on the child's statements alone.
- 330 (b) Inability to identify or locate the perpetrator may not be used by the division as a
- 331 basis for:
 - 332 (i) determining that a report is unsupported; or
 - 333 (ii) closing the case.
- 334 (c) The division may not determine a case to be unsupported or identify a case as
- 335 unsupported solely because the perpetrator was an out-of-home perpetrator.
- 336 (d) Decisions regarding whether a report is supported, unsupported, or without merit
- 337 shall be based on the facts of the case at the time the report was made.

338 (5) The division should maintain protective custody of the child if it finds that one or
339 more of the following conditions exist:

340 (a) the child does not have a natural parent, guardian, or responsible relative who is
341 able and willing to provide safe and appropriate care for the child;

342 (b) (i) shelter of the child is a matter of necessity for the protection of the child; and

343 (ii) there are no reasonable means by which the child can be protected in:

344 (A) the child's home; or

345 (B) the home of a responsible relative;

346 (c) there is substantial evidence that the parent or guardian is likely to flee the
347 jurisdiction of the court; or

348 (d) the child has left a previously court ordered placement.

349 (6) (a) Within 24 hours after receipt of a child into protective custody, excluding
350 weekends and holidays, the division shall:

351 (i) convene a child protection team to review the circumstances regarding removal of
352 the child from the child's home or school; and

353 (ii) prepare the testimony and evidence that will be required of the division at the
354 shelter hearing, in accordance with Section 78A-6-306.

355 ~~[(b) The child protection team described in Subsection (6)(a)(i) shall include:]~~

356 ~~[(i) the caseworker assigned to the case;]~~

357 ~~[(ii) the caseworker who made the decision to remove the child;]~~

358 ~~[(iii) a representative of the school or school district where the child attends school;]~~

359 ~~[(iv) the peace officer who removed the child from the home;]~~

360 ~~[(v) a representative of the appropriate Children's Justice Center, if one is established
361 within the county where the child resides;]~~

362 ~~[(vi) if appropriate, and known to the division, a therapist or counselor who is familiar
363 with the child's circumstances; and]~~

364 ~~[(vii) any other individuals determined appropriate and necessary by the team
365 coordinator and chair.]~~

366 (b) The child protection team may include members of a child protection unit.

367 (c) At the 24-hour meeting, the division shall have available for review and
368 consideration the complete child protective services and foster care history of the child and the

369 child's parents and siblings.

370 (7) (a) After receipt of a child into protective custody and prior to the adjudication
371 hearing, all investigative interviews with the child that are initiated by the division shall be:

372 (i) except as provided in Subsection (7)(b), audio or video taped; and

373 (ii) except as provided in Subsection (7)(c), conducted with a support person of the
374 child's choice present.

375 (b) (i) Subject to Subsection (7)(b)(ii), an interview described in Subsection (7)(a) may
376 be conducted without being taped if the child:

377 (A) is at least nine years old;

378 (B) refuses to have the interview audio taped; and

379 (C) refuses to have the interview video taped.

380 (ii) If, pursuant to Subsection (7)(b)(i), an interview is conducted without being taped,
381 the child's refusal shall be documented, as follows:

382 (A) the interviewer shall attempt to get the child's refusal on tape, including the reasons
383 for the refusal; or

384 (B) if the child does not allow the refusal, or the reasons for the refusal, to be taped, the
385 interviewer shall:

386 (I) state on the tape that the child is present, but has refused to have the interview,
387 refusal, or the reasons for the refusal taped; or

388 (II) if complying with Subsection (7)(b)(ii)(B)(I) will result in the child, who would
389 otherwise consent to be interviewed, to refuse to be interviewed, the interviewer shall
390 document, in writing, that the child refused to allow the interview to be taped and the reasons
391 for that refusal.

392 (iii) The division shall track the number of interviews under this Subsection (7) that are
393 not taped, and the number of refusals that are not taped, for each interviewer, in order to
394 determine whether a particular interviewer has a higher incidence of refusals, or taped refusals,
395 than other interviewers.

396 (c) (i) Notwithstanding Subsection (7)(a)(ii), the support person who is present for an
397 interview of a child may not be an alleged perpetrator.

398 (ii) Subsection (7)(a)(ii) does not apply if the child refuses to have a support person
399 present during the interview.

400 (iii) If a child described in Subsection (7)(c)(ii) refuses to have a support person
401 present in the interview, the interviewer shall document, in writing, the refusal and the reasons
402 for the refusal.

403 (iv) The division shall track the number of interviews under this Subsection (7) where
404 a child refuses to have a support person present for each interviewer, in order to determine
405 whether a particular interviewer has a higher incidence of refusals than other interviewers.

406 (8) The division shall cooperate with law enforcement investigations and with a child
407 protection unit, if applicable, regarding the alleged perpetrator.

408 (9) The division may not close an investigation solely on the grounds that the division
409 investigator is unable to locate the child until all reasonable efforts have been made to locate
410 the child and family members including:

- 411 (a) visiting the home at times other than normal work hours;
- 412 (b) contacting local schools;
- 413 (c) contacting local, county, and state law enforcement agencies; and
- 414 (d) checking public assistance records.

415 Section 5. Section **62A-4a-202.8** is amended to read:

416 **62A-4a-202.8. Child protection team meeting -- Timing.**

417 (1) Subject to Subsection (2), if the division files a petition under Section [78A-6-304](#),
418 the division shall convene a child protection team meeting to:

- 419 (a) review the circumstances of the filing of the petition; and
- 420 (b) develop or review implementation of a safety plan to protect the child from further
421 abuse, neglect, or dependency.

422 (2) The child protection team meeting required under Subsection (1) shall be held
423 within the shorter of:

- 424 (a) 14 days of the day on which the petition is filed under Section [78A-6-304](#) if the
425 conditions of Subsection (2)(b) or (c) are not met;
- 426 (b) 24 hours of the filing of the petition under Section [78A-6-304](#), excluding weekends
427 and holidays, if the child who is the subject of the petition will likely be taken into protective
428 custody unless there is an expedited hearing and services ordered under the protective
429 supervision of the court; or
- 430 (c) 24 hours after receipt of a child into protective custody, excluding weekends and

431 holidays, if the child is taken into protective custody as provided in Section [62A-4a-202.3](#).

432 (3) The child protection team [~~shall~~] may include [as many persons under Subsection
433 ~~62A-4a-202.3(6)(b) as appropriate.] members of a child protection unit.~~

434 (4) At its meeting the child protection team shall review the complete child protective
435 services and foster care history of the child and the child's parents and siblings.

436 Section 6. Section **62A-4a-202.9** is enacted to read:

437 **62A-4a-202.9. Child protection unit pilot program.**

438 (1) The division shall establish and operate Ŝ → , as funding allows, ←Ŝ a child protection
438a unit pilot program in Ŝ → [any
439 area] up to three areas ←Ŝ of the state where a local government has established a child protection
439a unit.

440 (2) The child protection unit pilot program is established to improve communications
441 between a child protection unit and the division in the division's management of child welfare
442 matters and to strengthen the state's child welfare system.

443 (3) The pilot program may include:

444 (a) involving a child protection unit in the child protection team during the division's
445 investigation when a child is taken into protective custody, as described in Section
446 [62A-4a-202.3](#);

447 (b) involving a child protection unit in the child protection team meetings, as described
448 in Section [62A-4a-202.8](#);

449 (c) involving a child protection unit in the division's protective, diagnostic, assessment,
450 treatment, and coordination services, as described in Section [62A-4a-409](#); or

451 (d) receiving referrals, reports, or other information from a child protection unit about a
452 child protection unit's investigations of cases that may involve abuse, neglect, or dependency of
453 a child.

454 (4) The division shall consult with a child protection unit before the division closes a
455 case, as described in Section [62A-4a-409](#).

456 (5) The child protection unit shall notify the division if the child protection unit closes
457 an investigation.

458 (6) The division and the child protection unit shall meet to discuss mutual cases at least
459 once every month.

460 (7) Subject to Section [62A-4a-412](#), while in meetings with the child protection unit
461 about a particular mutual case, the division:

462 (a) shall grant the child protection unit access to the division's information or records
463 on the mutual case, including information or records from:

- 464 (i) the division's case management files;
465 (ii) the child's school, as defined in Section [53A-6-103](#);
466 (iii) the Division of Juvenile Justice Services; or
467 (iv) the child's mental health providers; and

468 (b) may not allow the child protection unit to keep or copy any of the information or
469 records described in Subsection (7)(a).

470 (8) The division and the child protection unit shall collect data on the effectiveness of
471 the pilot program in strengthening the state's child welfare system and shall report the data to
472 the Child Welfare Legislative Oversight Committee on or before November 30 of each year
473 that the pilot program is in effect.

474 Section 7. Section **62A-4a-409** is amended to read:

475 **62A-4a-409. Investigation by division -- Temporary protective custody --**

476 **Preremoval interviews of children.**

477 (1) (a) The division shall make a thorough preremoval investigation upon receiving
478 either an oral or written report of alleged abuse, neglect, fetal alcohol syndrome, or fetal drug
479 dependency, when there is reasonable cause to suspect that a situation of abuse, neglect, fetal
480 alcohol syndrome, or fetal drug dependency exists.

481 (b) The primary purpose of the investigation described in Subsection (1)(a) shall be
482 protection of the child.

483 (2) The preremoval investigation described in Subsection (1)(a) shall include the same
484 investigative requirements described in Section [62A-4a-202.3](#).

485 (3) The division shall make a written report of its investigation that shall include a
486 determination regarding whether the alleged abuse or neglect is supported, unsupported, or
487 without merit.

488 (4) (a) The division shall use an interdisciplinary approach when appropriate in dealing
489 with reports made under this part.

490 (b) ~~[For this purpose, the]~~ The division shall convene ~~[appropriate interdisciplinary"]~~ a
491 child protection [teams"] team to assist ~~[it in its]~~ the division in the division's protective,
492 diagnostic, assessment, treatment, and coordination services.

493 (c) The division may include members of a child protection unit in the division's
494 protective, diagnostic, assessment, treatment, and coordination services.

495 ~~[(c)]~~ (d) A representative of the division shall serve as the team's coordinator and chair.
496 Members of the team shall serve at the coordinator's invitation. Whenever possible, the team
497 shall include representatives of:

498 (i) health, mental health, education, and law enforcement agencies;

499 (ii) the child;

500 (iii) parent and family support groups unless the parent is alleged to be the perpetrator;

501 and

502 (iv) other appropriate agencies or individuals.

503 (5) If a report of neglect is based upon or includes an allegation of educational neglect,
504 the division shall immediately consult with school authorities to verify the child's status in
505 accordance with Sections [53A-11-101](#) through [53A-11-103](#).

506 (6) When the division completes its initial investigation under this part, it shall give
507 notice of that completion to the person who made the initial report.

508 (7) Division workers or other child protection team members have authority to enter
509 upon public or private premises, using appropriate legal processes, to investigate reports of
510 alleged abuse or neglect, upon notice to parents of their rights under the Child Abuse
511 Prevention and Treatment Act, 42 U.S.C. Sec. 5106, or any successor thereof.

512 (8) With regard to any interview of a child prior to removal of that child from the
513 child's home:

514 (a) except as provided in Subsection (8)(b) or (c), the division shall inform a parent of
515 the child prior to the interview of:

516 (i) the specific allegations concerning the child; and

517 (ii) the time and place of the interview;

518 (b) if a child's parent or stepparent, or a parent's paramour has been identified as the
519 alleged perpetrator, the division is not required to comply with Subsection (8)(a);

520 (c) if the perpetrator is unknown, or if the perpetrator's relationship to the child's family
521 is unknown, the division may conduct a minimal interview or conversation, not to exceed 15
522 minutes, with the child prior to complying with Subsection (8)(a);

523 (d) in all cases described in Subsection (8)(b) or (c), a parent of the child shall be

524 notified as soon as practicable after the child has been interviewed, but in no case later than 24
525 hours after the interview has taken place;

526 (e) a child's parents shall be notified of the time and place of all subsequent interviews
527 with the child; and

528 (f) the child shall be allowed to have a support person of the child's choice present,
529 who:

530 (i) may include:

531 (A) a school teacher;

532 (B) an administrator;

533 (C) a guidance counselor;

534 (D) a child care provider;

535 (E) a family member;

536 (F) a family advocate; or

537 (G) clergy; and

538 (ii) may not be a person who is alleged to be, or potentially may be, the perpetrator.

539 (9) In accordance with the procedures and requirements of Sections [62A-4a-202.1](#)
540 through [62A-4a-202.3](#), a division worker or child protection team member may take a child
541 into protective custody and deliver the child to a law enforcement officer, or place the child in
542 an emergency shelter facility approved by the juvenile court, at the earliest opportunity
543 subsequent to the child's removal from the child's original environment. Control and
544 jurisdiction over the child is determined by the provisions of Title 78A, Chapter 6, Juvenile
545 Court Act [~~of 1996~~], and as otherwise provided by law.

546 (10) With regard to cases in which law enforcement has or is conducting an
547 investigation of alleged abuse or neglect of a child:

548 (a) the division shall coordinate with law enforcement to ensure that there is an
549 adequate safety plan to protect the child from further abuse or neglect; and

550 (b) the division is not required to duplicate an aspect of the investigation that, in the
551 division's determination, has been satisfactorily completed by law enforcement.

552 (11) With regard to cases in which a child protection unit was involved in the
553 investigation of alleged abuse or neglect of a child, the division shall consult with the child
554 protection unit before closing a case.

555 Section 8. Section **62A-4a-412** is amended to read:

556 **62A-4a-412. Reports and information confidential.**

557 (1) Except as otherwise provided in this chapter, reports made pursuant to this part, as
558 well as any other information in the possession of the division obtained as the result of a report
559 are private, protected, or controlled records under Title 63G, Chapter 2, Government Records
560 Access and Management Act, and may only be made available to:

561 (a) a police or law enforcement agency investigating a report of known or suspected
562 abuse or neglect, including members of a child protection unit;

563 (b) a physician who reasonably believes that a child may be the subject of abuse or
564 neglect;

565 (c) an agency that has responsibility or authority to care for, treat, or supervise a minor
566 who is the subject of a report;

567 (d) a contract provider that has a written contract with the division to render services to
568 a minor who is the subject of a report;

569 (e) except as provided in Subsection **63G-2-202(10)**, a subject of the report, the natural
570 parents of the child, and the guardian ad litem;

571 (f) a court, upon a finding that access to the records may be necessary for the
572 determination of an issue before the court, provided that in a divorce, custody, or related
573 proceeding between private parties, the record alone is:

574 (i) limited to objective or undisputed facts that were verified at the time of the
575 investigation; and

576 (ii) devoid of conclusions drawn by the division or any of the division's workers on the
577 ultimate issue of whether or not a person's acts or omissions constituted any level of abuse or
578 neglect of another person;

579 (g) an office of the public prosecutor or its deputies in performing an official duty;

580 (h) a person authorized by a Children's Justice Center, for the purposes described in
581 Section **67-5b-102**;

582 (i) a person engaged in bona fide research, when approved by the director of the
583 division, if the information does not include names and addresses;

584 (j) the State Board of Education, acting on behalf of itself or on behalf of a school
585 district, for the purpose of evaluating whether an individual should be permitted to obtain or

586 retain a license as an educator or serve as an employee or volunteer in a school, limited to
587 information with substantiated findings involving an alleged sexual offense, an alleged felony
588 or class A misdemeanor drug offense, or any alleged offense against the person under Title 76,
589 Chapter 5, Offenses Against the Person, and with the understanding that the office must
590 provide the subject of a report received under Subsection (1)(k) with an opportunity to respond
591 to the report before making a decision concerning licensure or employment;

592 (k) any person identified in the report as a perpetrator or possible perpetrator of abuse
593 or neglect, after being advised of the screening prohibition in Subsection (2);

594 (l) except as provided in Subsection 63G-2-202(10), a person filing a petition for a
595 child protective order on behalf of a child who is the subject of the report; and

596 (m) a licensed child-placing agency or person who is performing a preplacement
597 adoptive evaluation in accordance with the requirements of Sections 78B-6-128 and
598 78B-6-130.

599 (2) (a) A person, unless listed in Subsection (1), may not request another person to
600 obtain or release a report or any other information in the possession of the division obtained as
601 a result of the report that is available under Subsection (1)(k) to screen for potential
602 perpetrators of abuse or neglect.

603 (b) A person who requests information knowing that it is a violation of Subsection
604 (2)(a) to do so is subject to the criminal penalty in Subsection (4).

605 (3) (a) Except as provided in Section 62A-4a-1007 and Subsection (3)(b), the division
606 and law enforcement officials shall ensure the anonymity of the person or persons making the
607 initial report and any others involved in its subsequent investigation.

608 (b) Notwithstanding any other provision of law, excluding Section 78A-6-317, but
609 including this chapter and Title 63G, Chapter 2, Government Records Access and Management
610 Act, when the division makes a report or other information in its possession available under
611 Subsection (1)(e) to a subject of the report or a parent of a child, the division shall remove from
612 the report or other information only the names, addresses, and telephone numbers of
613 individuals or specific information that could:

- 614 (i) identify the referent;
- 615 (ii) impede a criminal investigation; or
- 616 (iii) endanger a person's safety.

617 (4) Any person who wilfully permits, or aides and abets the release of data or
618 information obtained as a result of this part, in the possession of the division or contained on
619 any part of the Management Information System, in violation of this part or Sections
620 [62A-4a-1003](#) through [62A-4a-1007](#), is guilty of a class C misdemeanor.

621 (5) The physician-patient privilege is not a ground for excluding evidence regarding a
622 child's injuries or the cause of those injuries, in any proceeding resulting from a report made in
623 good faith pursuant to this part.

624 (6) A child-placing agency or person who receives a report in connection with a
625 preplacement adoptive evaluation pursuant to Sections [78B-6-128](#) and [78B-6-130](#):

626 (a) may provide this report to the person who is the subject of the report; and

627 (b) may provide this report to a person who is performing a preplacement adoptive
628 evaluation in accordance with the requirement of Sections [78B-6-128](#) and [78B-6-130](#), or to a
629 licensed child-placing agency or to an attorney seeking to facilitate an adoption.

630 Section 9. Section **63I-1-262** is amended to read:

631 **63I-1-262. Repeal dates, Title 62A.**

632 (1) Section [62A-4a-213](#) is repealed July 1, 2019.

633 (2) Section [62A-4a-202.9](#) is repealed December 31, 2019.

634 [~~2~~] (3) Subsection [62A-15-1101](#)(5) is repealed July 1, 2018.

635 Section 10. Section **78A-6-322** is amended to read:

636 **78A-6-322. Abuse, neglect, or dependency of child -- Coordination of**
637 **proceedings.**

638 (1) In each case where an information or indictment has been filed against a defendant
639 concerning abuse, neglect, or dependency of a child, and a petition has been filed in juvenile
640 court concerning the victim, the appropriate county attorney's or district attorney's office shall
641 coordinate with the attorney general's office.

642 (2) Law enforcement personnel, Division of Child and Family Services personnel, the
643 appointed guardian ad litem, pretrial services personnel, and corrections personnel shall make
644 reasonable efforts to facilitate the coordination required by this section.

645 (3) Members of interdisciplinary child protection teams, established under Section
646 [62A-4a-409](#), may participate in the coordination required by this section.

647 (4) Members of a child protection unit, established under Section [10-3-913](#) or [17-22-2](#),

648 may coordinate with the attorney general's office, Division of Child and Family Services
649 personnel, the appointed guardian ad litem, pretrial services personnel, and corrections
650 personnel as appropriate.

Legislative Review Note
Office of Legislative Research and General Counsel